



**Department of Revenue
Tax Law & Policy Section
Informational Bulletin # 2010-03
Proposed Policy for the Internet Sale of Alcoholic Beverages**

December 3, 2010

The Department is evaluating a policy concerning internet ordering and customer pick-up and would like the public's input.

Summary:

The Department has been approached regarding a proposed new business model for the sale of alcoholic beverages on the internet. Under the proposed business model:

- The customer makes a purchase of alcoholic beverages on the web and provides a credit card number for payment.
- The customer's credit card is charged when the licensed retailer removes the purchased alcoholic beverages from its inventory in preparation for pick-up by the customer.
- The customer then picks up the purchased alcoholic beverages at his convenience.

The customer must pick up the alcoholic beverages at a licensed retail level location, rather than having it delivered to their residence by a common carrier as is done with direct order shipping.

Proposed Policy:

- (1) A licensed retailer may sell alcoholic beverages using the internet, charge a customer's credit card upon fulfilling the order, and have the customer pick up the alcoholic beverages at a subsequent time. Provided that:
 - (a) At the time of delivery, the retailer must require the customer to present:
 1. The charged credit card used in the transaction for verification; and
 2. Proper identification, as defined by O.C.G.A. § 3-3-23(d), to ensure the customer is of age.
 - (b) The retailer shall:
 1. Not issue credits or refunds to the purchaser;
 2. Not void a sale of alcoholic beverages that has been processed;
 3. Provide notice to the purchaser that all sales are final as of the time in which the credit card is charged;
 4. Store the customer order in an area that is separate from store inventory, and is marked as not for public sale.

(c) In the event a customer fails to pick up the purchased products, the alcoholic beverages must be destroyed within seven (7) days from the date of expected pick-up date. The Retailer must notify the Department in the event any alcoholic beverages are not picked up by a customer and shall be destroyed in the presence of the Department.

(d) All alcoholic beverages purchased for in-store pick up shall be obtained from the inventory of the location in which the customer is to pick up the order.

Discussion:

Analysis of the pertinent law is as follows:

Department regulation 560-2-2-.25 provides that a "simultaneous" transaction under regulation 560-2-2-.17 is "complete at the time that the customer makes payment and accepts the beverage alcohol within the licensed premises." Department regulation 560-2-2-.17 requires that "delivery and payment [of alcoholic beverages] shall be a simultaneous transaction within the licensed place of business."

In context, the simultaneous transaction requirement appears in a regulation that prohibits the extension of credit for the purchase of alcoholic beverages. The regulations, taken together, attempt to ensure that the Retailer gets paid at the time the customer receives the alcoholic beverages.

There are many examples of acceptable transactions that do not occur "simultaneously" in its strictest application; namely, the running of bar tabs, direct shipments of wine, and purchases of alcoholic beverages by members of private clubs.

Specifically, O.C.G.A. § 3-6-31 permits special order shipping of wine where a customer places an order, generally by internet or phone, with a winery. The customer provides for payment at the time of the order, usually a credit card. The winery subsequently ships the alcoholic beverages to the customer by a common carrier who must verify that the person accepting the order is of age. The proposed internet policy tracks very closely with special order shipping, except that the customer then picks up the alcoholic beverages and provides identification in person at the store.

Procedure:

The Department is seeking public comment to this proposed policy. Public comments will be accepted for fifteen (15) days from the date of this memorandum. Written comments must be sent to: Commissioner, Georgia Department of Revenue, 1800 Century Blvd. NE, Suite 15300, Atlanta, GA 30345-3205. Electronic comments must be sent to regcomments@dor.ga.gov.

FOR MORE INFORMATION

Contact Tax Law & Policy

at 404-417-6649,

Monday through Friday, excluding holidays.

from 8:00 a.m. to 4:30 p.m. EST,

For forms and other information, please visit our website (www.dor.ga.gov).